

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
FIFTH DIVISION (DULUTH)**

TROY K. SCHEFFLER,)	
)	
Plaintiff,)	
v.)	Case No. 19-cv-1398
)	
COMENITY BANK,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant Comenity Bank (“Comenity”), by counsel, and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby removes the above-entitled action, which is currently pending in the District Court for the Ninth Judicial District of Crow Wing County, Minnesota, and states as follows:

Background

1. On May 7, 2019, Plaintiff Troy K. Scheffler commenced an action in the District Court for the Ninth Judicial District, in Crow Wing County, Minnesota, by serving a Class Action Complaint and Summons on Comenity alleging violations of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692, *et seq.* (A copy of the Summons and Plaintiff’s Complaint are attached as Exhibit A.)

2. The Summons and Complaint constitute “all process, pleadings, and orders served upon” Comenity in this action. 28 U.S.C. § 1446(a).

Removal Jurisdiction

3. This action is properly removable under 28 U.S.C. § 1441, because this

Court has original jurisdiction of this case under 28 U.S.C. § 1331 (“The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States”).

4. Specifically, Plaintiff alleges Comenity violated 15 U.S.C. § 1692j by furnishing two notices to Plaintiff that “created the false belief by Plaintiff that [Comenity] was participating in an attempt to collect a debt not owed to them[,]” where Comenity was not actually participating in the collection of that debt. (Compl. ¶¶ 46-50.) Hence, this is a civil action “arising under the Constitution, laws, or treaties of the United States” pursuant to Section 1331, and removal is appropriate pursuant to Sections 1441 and 1446.

5. Removal to this Court is proper as the United States District Court for the District of Minnesota, Fifth Division (Duluth), embraces Crow County, Minnesota, which is the county that the state court action is pending. 28 U.S.C. § 1441(a).

Timeliness of Removal

6. Comenity received notice of this action through service of the Summons and Complaint on May 7, 2019. Therefore, this Notice of Removal is timely under 28 U.S.C. § 1446(b), as it is less than 30 days since Comenity was served with process.

Notice to State Court

7. Pursuant to 28 U.S.C. § 1446(d), Comenity is promptly providing

written notice of its removal to Plaintiff and will promptly file a copy of this Notice of Removal with the Clerk of the District Court for the Ninth Judicial District of Crow Wing County, Minnesota.

WHEREFORE, Defendant Comenity Bank respectfully requests that the above-entitled action be removed from District Court for the Ninth Judicial District of Crow Wing County, Minnesota, to this Court.

Dated: May 28, 2019

Respectfully submitted,

COMENITY BANK

By: /s/ Matthew O. Stromquist
One of its attorneys

Matthew O. Stromquist
Ke Liu (*pro hac vice* application forthcoming)
Pilgrim Christakis LLP
321 North Clark Street, 26th Floor
Chicago, Illinois 60654
Ph.: (312) 361-3457
Fax: (312) 939-0983
mstromquist@pilgrimchristakis.com
kliu@pilgrimchristakis.com

CERTIFICATE OF SERVICE

Matthew O. Stromquist, an attorney, certifies that on May 28, 2019, he caused a true and accurate copy of foregoing **Notice of Removal** to be mailed via first class U.S. mail, with proper postage prepaid and affixed thereto, to the following participants of record:

Troy Scheffler (*pro se*)
26359 Shandy Trl
Merrifield, MN 56465

/s/ Matthew O. Stromquist